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SMITH'S FOOD & DRUG CENTERS, INC.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MIGUEL ANGEL ARIZMENDI  
MARTINEZ, an individual,

Plaintiff,

vs.

SMITH'S FOOD & DRUG CENTERS, INC.,  
a foreign corporation; DOE & ROE  
MAINTENANCE EMPLOYEES; DOE &  
ROE MAINTENANCE COMPANIES; DOE  
& ROE EMPLOYEES; DOE & ROE  
EMPLOYERS; DOE OWNERS I-V; ROE  
OWNERS I-V; ROE EMPLOYERS I-V;  
DOES I-V; and ROE COMPANIES I-V,

Defendants.

Case No. 2:21-cv-01199-GMN-NJK

**STIPULATION TO EXTEND  
DISCOVERY SCHEDULE  
(SECOND REQUEST)**

Good cause is present for the stipulation under LR II 26-3.

WHEREAS on November 17, 2021, the parties submitted a stipulation to extend the rebuttal expert disclosure by 90 days.<sup>1</sup> On November 18, 2021, the Court entered an Order granting in part and denying in part the stipulation.<sup>2</sup> The Court extended the deadline to disclose rebuttal experts to December 13, 2021.<sup>3</sup>

WHEREAS, Defendant was able to retain experts; however, the experts, given the upcoming holidays, the complexity of Plaintiff's alleged injury, and staffing shortages, need an additional two weeks

<sup>1</sup> ECF No. 14.

<sup>2</sup> ECF No. 15.

<sup>3</sup> *Id.*

1 to finish their review of the medical records, the expert report of Randa Bascheron, D.O., and to prepare  
2 their rebuttal expert reports.

3 IT IS HEREBY STIPULATED AND AGREED, by and between Darren J. Lach, Esq. of LACH  
4 INJURY LAW as counsel for Plaintiff MIGUEL ANGEL ARIZMENDI MARTINEZ, and Jerry S.  
5 Busby, Esq., of the law firm COOPER LEVENSON, P.A., as counsel for Defendant SMITH'S FOOD &  
6 DRUG CENTERS, INC., that the rebuttal expert disclosure deadline of December 13, 2021, be extended  
7 by two weeks until December 27, 2021.

8 **STATEMENT SPECIFYING THE DISCOVERY THAT HAS BEEN COMPLETED.**

- 9 1. The parties participated in the Fed. R. Civ. P. 26(f) conference.  
10 2. Both parties have made their disclosures pursuant to Fed. R. Civ. P. 26.1(a)(1).  
11 3. Both parties have served, and responded to, written discovery including interrogatories,  
12 requests for admissions, and requests for production of documents.  
13 4. Defendant deposed Plaintiff on September 7, 2021; and  
14 5. Defendant deposed Plaintiff's medical expert, Randa Bascheron, D.O. on November 5, 2021.

15 **A. SPECIFIC DESCRIPTION OF THE DISCOVERY THAT REMAINS TO BE**  
16 **COMPLETED.**

- 17 1. Defendant's medical expert to disclose rebuttal expert report.  
18 2. Depositions of expert witnesses.

19 **B. REASONS WHY THE DISCOVERY REMAINING WAS NOT COMPLETED**  
20 **WITHIN THE DEADLINES CONTAINED IN THE DISCOVERY SCHEDULING**  
21 **ORDER**

22 Pursuant to LR II 26-3, good cause is present for the stipulation. Plaintiff disclosed Dr.  
23 Bascheron as a retained medical expert on October 28, 2021. Simply put, Defendant's expert does not  
24 have a sufficient amount of time to draft a rebuttal report under the current Scheduling Order.

25 **C. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DISCOVERY**

26 As a result of the above, it is requested that the discovery deadlines in this case be continued 60  
27 days from their present deadlines.

- 28 **1. Discovery Cut-Off Date:** The parties jointly propose that the discovery cut-off date be

1 extended 45 days from its present deadline of December 27, 2021 to **February 10, 2022.**

2 **2. Amending the Pleadings and Adding Parties:** The parties do not seek to extend this  
3 deadline, but reserve the right to bring an appropriate motion in the future in the unlikely event that new  
4 information is found in discovery that creates the need to amend the pleadings.

5 **3. Fed. R. Civ. P. 2(a)(2) Disclosures (Experts):** The parties do not seek to extend the  
6 expert disclosure deadline; the rebuttal expert disclosure be extended 14 days from its present deadline  
7 of December 13, 2021 to **December 27, 2021.**

8 **4. Interim Status Report:** Under recent changes in the rules, the parties will not file an  
9 interim status report previously required by LR 26-3.

10 **5. Dispositive Motions:** In the event that the discovery period is extended from the  
11 discovery cut-off date set forth in the proposed Discovery Plan and Scheduling Order, the date for filing  
12 dispositive motions shall be extended 44 days from its present deadline of January 26, 2022 to **March**  
13 **11, 2022.**

14 **6. Pretrial Order:** The parties do not propose a change to the current deadline.

15 **7. Fed. R. Civ. P. 26(a)(3) Disclosures:** The disclosures required by Fed.R.Civ.P. 26(a)(3),  
16 and any objections thereto, shall be included in the joint pretrial order.

17 **8. Alternative Dispute Resolution:** Counsel for the parties certify that they met and  
18 conferred about the possibility of using alternative dispute resolution including mediation, arbitration,  
19 and/or an early neutral evaluation. The parties have not scheduled any such ADR forum at this point, but  
20 agree to reconsider following the disclosure of expert witness reports and after the close of discovery.

21 **9. Alternative Forms of Case Disposition:** The parties certify that they discussed  
22 consenting to trial by a magistrate judge or engaging in the Short Trial Program under Fed. R. Civ. P. 73  
23 and at present do not consent to either alternative form of case disposition.

24 **10. Electronic Evidence:** The parties certify that they have discussed and intend to use  
25 electronic evidence at the trial of this matter and will ensure that said evidence is in an electronic format  
26 compatible with the Court's electronic jury evidence display system. At present, the parties have not  
27 agreed upon any stipulations regarding the use of electronic evidence but will address this issue again in  
28 the Pre Trial Order.

11. **Extensions or Modifications of the Discovery Plan and Scheduling Order:** Any

stipulation or motion must be made no later than 21 days before the subject deadline. Requests to extend discovery deadlines must comply fully with LR 26-3.

Respectfully submitted this 13th day of December, 2021.

LACH INJURY LAW

COOPER LEVENSON, P.A

/s/ Darren J. Lach

/s/Jerry S. Busby

DARREN J. LACH, ESQ.

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MIGUEL ANGEL ARIZMENDI MARTINEZ

SMITH'S FOOD & DRUG CENTERS, INC.

**ORDER**

IT IS SO ORDERED:

**NO FURTHER EXTENSIONS  
WILL BE GRANTED.**

DATED this 14<sup>th</sup> day of December, 2021.

  
UNITED STATES MAGISTRATE JUDGE